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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,409	04/03/2001	Stephen Lupo	55381 (18102)	1638
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KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			EXAMINER AVELLINO, JOSEPH E	
			ART UNIT 2143	PAPER NUMBER
			MAIL DATE 05/24/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/825,409

Applicant(s)

LUPO ET AL.

Examiner

Joseph E. Avellino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 and 40-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 and 40-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-38, and 40-42 are presented for examination with claims 1, 14, 15, 22, 24, 33, and 41 independent.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 4-10, 15-16, 18, 19, 24-30, 33-36, 41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dureau (WO 99/66726) (cited by Applicant in IDS) in view of Chaganti et al. (USPN 6,845,448) (hereinafter Chaganti).

3. Referring to claim 1, Dureau discloses a system for processing interactive media output from one or more subscribers (i.e. receiving stations 13) comprising:

a collection and aggregation network (e.g. abstract) including:

a collector configured to collect the interactive output from each of the one or more subscribers and to store the collected interactive media output in a non-relational manner (e.g. abstract); and

an aggregator operably connected to the collector, the aggregator configured and arranged to collect and aggregate the interactive output from the collector (p. 7, lines 6-19).

Dureau does not specifically state the collected interactive media output is stored as a flat file. In analogous art, Chaganti discloses another system for processing output from one or more devices wherein the output is stored as a flat file (i.e. a database which can comprise a flat file) (col. 14, lines 5-10). It would have been obvious to one of ordinary skill in the art to combine the teaching of Chaganti with Dureau since Dureau discloses collecting information and storing information in a database, however does not disclose as to specifically how this information is set up in the database. This would lead one of ordinary skill in the art to search for other data logging systems and how the data is logged, eventually finding Chaganti and its system of gathering personal information and releasing this information to authorized requestors. Chaganti would further improve the system of Dureau by only allowing the data (i.e. viewing preferences) to be accessed by authorized users by utilizing the system of Chaganti.

4. Referring to claim 2, Dureau discloses the collection and aggregation network is configured to process a high volume of the interactive output (i.e. when the set-top box is full) (p. 7, lines 1-5).

5. Referring to claim 5, Dureau discloses at least one communications message server, operably connected to a plurality of the one or more subscribers and the collector, that receives the interactive output from said subscribers and formats the output for transmission to the collector (the set-top box receives the interactive output

from the user where it is transmitted to the broadcast station) (e.g. abstract; p. 7, lines 1-5).

6. Referring to claim 6, Dureau discloses the collector includes a plurality of products, each of the products processing the interactive output corresponding to an event (i.e. creating viewer preference filters based on the incoming data) (p. 7, lines 6-24).

7. Referring to claim 7, Dureau discloses the products log at least a portion of the interactive output from the event (p. 7, lines 19-36).

8. Referring to claim 8, Dureau discloses each of the products generates and sends back response replies to the one or more subscribers (p. 7, lines 6-24).

9. Referring to claim 9, Dureau discloses including a plurality of subscriber networks, each of the subscriber networks being operably connected to at least one communications message server, wherein the communication message server is operably linked to at least one collector (i.e. each set-top box includes a message server to transmit messages to the broadcast station) (Figure 1).

10. Referring to claim 10, Dureau discloses the server normalizes the interactive output received from its corresponding subscriber network for transmission to the at

least one collector (the term “normalizes” is taken to mean “formatted in order for transmission”) (p. 7, lines 1-5).

11. Referring to claim 11, Dureau in view of Crooks discloses the invention substantively as described in claim 1. Dureau in view of Chaganti furthermore discloses another collection and aggregation system wherein the aggregator transmits the interactive output received from the collector to an application server (i.e. requesters 105) connected to the aggregator (Figure 1). It would have been obvious to one of ordinary skill in the art to combine the teaching of Chaganti with Dureau since Dureau discloses collecting information and storing information in a database, however does not disclose as to specifically how this information is set up in the database. This would lead one of ordinary skill in the art to search for other data logging systems and how the data is logged, eventually finding Chaganti and its system of gathering personal information and releasing this information to authorized requestors. Chaganti would further improve the system of Dureau by only allowing the data (i.e. viewing preferences) to be accessed by authorized users by utilizing the system of Chaganti.

12. Claims 14, 24-30, 33-36, 41 and 43 are rejected for similar reasons as stated above. Furthermore Dureau discloses the aggregator collects summary data regarding a combination of individual subscriber response data collected by the collector (i.e. determine viewing patterns, preferences and other information which form profiles corresponding to different types of viewers) (p. 7, lines 6-16). Furthermore Dureau

discloses normalizing the collection of data since all the data collected is used to determine viewing patterns and their interest in viewing a second program (p. 7, lines 17-20) (also see rejection for claim 10 above).

Claims 4, 15, 16, 18, and 19, are rejected under 35 U.S.C. 103(a) as being unpatentable over Dureau in view of Chaganti and further in view of Footer et al. (US 2002/0129372) (hereinafter Footer).

13. Referring to claim 4, Dureau- Chaganti discloses the invention substantively as described in claim 1. Dureau- Chaganti does not specifically state that the collected and aggregated interactive output is transmitted through the system in real time. In analogous art, Footer discloses the collected and aggregated interactive output (i.e. the data log) is transmitted through the system in real time (p. 1, ¶ 8). It would have been obvious to one of ordinary skill in the art to combine the teaching of Footer with Dureau- Chaganti since Dureau discloses collecting information and storing information in a database, however does not disclose as to specifically how this information is set up in the database. This would lead one of ordinary skill in the art to search for other data logging systems and how the data is logged, eventually finding Footer and its system of storing data comprising a number of single actions with timestamp identifiers.

14. Claim 15, 16, 18, and 19 are rejected for similar reasons as stated above.

Claims 12-13, 20-23, 31, 32, 37, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dureau in view of Chaganti in view of Footer in view of Hendricks et al. (USPN 6,160,989) (cited by Applicant in IDS) (hereinafter Hendricks).

15. Referring to claim 12, Dureau in view of Chaganti discloses the invention substantively as described in claim 1. Dureau in view of Chaganti does not disclose the application server connected to a producer event browser via a web server. In analogous art, Hendricks discloses another collection and aggregation system wherein the application server connected to a producer event browser (i.e. a workstation) via a web server (i.e. network controller CPU) (col. 29, lines 4-10). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Hendricks with Dureau in order to effectively targeting advertisements to particular consumers and viewers without relying upon telephone lines as supported by Hendricks (col. 2, lines 55-63).

16. Referring to claim 13, Dureau in view of Chaganti discloses the invention substantively as described in claim 1. Dureau in view of Chaganti does not disclose the application server is operably connected to a developer computer via a web server. In analogous art, Hendricks discloses another collection and aggregation system wherein the application server is operably connected to a developer computer via a web server (col. 34, lines 15-54). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Hendricks with Dureau in order

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to effectively targeting advertisements to particular consumers and viewers without relying upon telephone lines as supported by Hendricks (col. 2, lines 55-63).

17. Claims 20-23, 31, 32, 37, and 38 are rejected for similar reasons as stated above.

Claims 3, 40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dureau in view of Chaganti in view of Gai et al. (USPN 6,714,985) (hereinafter Gai).

18. Referring to claim 3, Dureau in view of Crooks discloses a collection and aggregation system substantively as described in claim 1. Dureau in view of Chaganti does not specifically disclose that the network can handle at least 100,000 responses per second. In analogous art, Gai discloses another network wherein the apparatus may handle millions of messages per second (col. 13, lines 20-29). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Gai with Dureau in order to process messages at extremely high speeds, thereby increasing throughput and thereby allowing more users accessing the network as supported by Gai (col. 3, lines 52-56; col. 4, 26-42).

19. Claims 40, and 42 are rejected for similar reasons as stated above.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dureau in view of Chiganti in view of Footer in view of Gai.

20. Dureau-Chiganti-Footer discloses the invention substantively as described in the claims above. Dureau-Chiganti-Footer does not disclose that the network can handle at least 100,000 responses per second. In analogous art, Gai discloses another network wherein the apparatus may handle millions of messages per second (col. 13, lines 20-29). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Gai with Dureau-Chiganti-Footer in order to process messages at extremely high speeds, thereby increasing throughput and thereby allowing more users accessing the network as supported by Gai (col. 3, lines 52-56; col. 4, 26-42).

Response to Arguments

21. Applicant's arguments dated April 9, 2007 have been fully considered but are not persuasive.

22. In the remarks, Applicant argues, in substance, that (1) the cited portion of Chiganti indicates that a database can include a flat file, does not disclose or suggest that the database is composed entirely of a flat file, and does not suggest storing data collected from a plurality of subscriber stations as a whole as a flat file, Dureau in view of Chiganti do not disclose the collection and aggregation happening in real time.

23. As to point (1), the recitation in Chiganti states that "the word 'database' is assumed to comprise a flat file..." (col. 14, lines 5-10), clearly demonstrates to one of ordinary skill in the art that a database can be construed as a flat file. Just because the database can be understood as plurality of other entities (i.e. area of memory, index file, relational database, etc.) does not preclude the idea that the database can be construed as a flat file. As shown above in the rejections, It is the combination of Dureau in view of Chiganti which discloses the storage of data collected from the subscriber stations as a flat file. For these reasons, the combination of Dureau in view of Chiganti clearly demonstrates the collection and storage of data collected from a plurality of subscriber stations as a flat file. By this rationale, the rejection is maintained.

24. As to point (2), the Office agrees, yet this feature is taught by Footer. The rejections have been modified to show that the rejection of claim 15 is based upon this rejection.

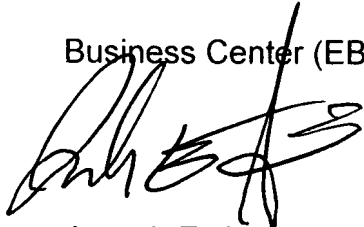
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'J. Avellino', is written over the printed name of the examiner.

Joseph E. Avellino, Examiner
May 16, 2007